

(TO PLAINTIFF'S ATTORNEY: Please Circle Type of Action Involved: - TORT - MOTOR VEHICLE TORT - CONTRACT - EQUITABLE RELIEF - OTHER.)

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT
CIVIL ACTION

No. 2017CV00790

Nancy Theberge

Plaintiff(s)

v.

ACV Environmental Services, Inc., Defendant(s)

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve upon Timothy D. Rodden Jr of the Law Group, LLC ^{Upper Charles} plaintiff's attorney, whose address is 10 Kenna Rd., Suite 101, Needham, MA 02464, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at 56 Federal Street, Salem, MA 01970 either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13 (a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

WITNESS, Judith Fabricant, Esquire, at Salem, the 12th day of August, in the year of our Lord two thousand 20

Thomas H. Quirk
Clerk

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

A true copy Attest:

Joseph P. Casey
Deputy Sheriff Suffolk County

8-17-20

NOTICE TO DEFENDANT - You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein and also file the original in the Clerk's Office.

CIVIL ACTION COVER SHEET	DOCKET NUMBER	Trial Court of Massachusetts The Superior Court
PLAINTIFF(S): Nancy Theberge ADDRESS: 7 Pauline Road, Danvers, Essex County, Massachusetts 01923		COUNTY: Essex
DEFENDANT(S): ACV Environmental Services, Inc.		
ATTORNEY: Timothy O. Rodden Jr. ADDRESS: Upper Charles Law Group, LLC 10 Kearney Road, Suite 101, Needham, Massachusetts, 02494		ADDRESS: 1500 Rahway Avenue, Avenal, New Jersey 07001 Registered Agent: C T Corporation System, 155 Federal Street, Suite 700, Boston, MA 02110
SSO: 691228		
CODE NO. B04	TYPE OF ACTION AND TRACK DESIGNATION (see reverse side) TYPE OF ACTION (specify) Other Negligence - Personal Injury	TRACK F
		HAS A JURY CLAIM BEEN MADE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
*If "Other" please describe:		
<div style="display: flex; justify-content: space-between;"> <div> Is there a claim under G.L. c. 93A? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO </div> <div> Is this a class action under Mass. R. Civ. P. 23? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO </div> </div>		
STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A		
The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiffs counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
TORT CLAIMS (attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses		\$
2. Total doctor expenses		\$
3. Total chiropractic expenses		\$
4. Total physical therapy expenses		\$
5. Total other expenses (describe below)		\$
Subtotal (A):		\$ 10,000
B. Documented lost wages and compensation to date		\$ 10,000
C. Documented property damages to date		\$
D. Reasonably anticipated future medical and hospital expenses		\$
E. Reasonably anticipated lost wages		\$ 30,000
F. Other documented items of damages (describe below)		\$ 50,000
Pain and suffering/Diminished Working Capacity/Diminished Quality of Life		
G. Briefly describe plaintiff's injury, including the nature and extent of injury: Acute Chemical Exposure Resulting In Severe Chemical Sensitivity and Breathing Issues		
TOTAL (A-F):		\$ >100,000
CONTRACT CLAIMS (attach additional sheets as necessary)		
<input type="checkbox"/> This action includes a claim involving collection of a debt incurred pursuant to a revolving credit agreement, Mass. R. Civ. P. 8.1(a). Provide a detailed description of claim(s):		
TOTAL:		\$
Signature of Attorney/ Unrepresented Plaintiff:		
		Date: August 6, 2020
RELATED ACTIONS: Please provide the case number, case name, and county of any related actions pending in the Superior Court.		
CERTIFICATION PURSUANT TO SJC RULE 1:18		
I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.		
Signature of Attorney of Record:		Date: August 6, 2020

**ESSEX COUNTY SUPERIOR COURT
CIVIL ACTION NO. 1977CV**

ACV ENVIRONMENTAL SERVICES, INC.
Defendant,

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5. ACV's employee continued down a couple of stairs, spilling more liquid waste.
6. Following ACV's employee's spill of liquid waste, bleach was poured on the liquid waste in an attempt to clean it.
7. The liquid waste reacted with the bleach and caused a toxic chemical reaction which was released into the air near Mrs. Theberge's work space.
8. Defendant's failure to exercise reasonable care in handling and cleaning the toxic chemical waste, which caused the chemical reaction resulting in the release of toxic inhalants, created for Plaintiff and similarly-situated persons a dangerous condition that was allowed to exist for an unreasonable amount of time.
9. As a result of the Defendants' negligence as set forth above, the Plaintiff suffered serious personal injuries and great pain of body and mind.

COUNT 1
NEGLIGENCE

10. Plaintiff re-alleges and incorporates by reference the allegations made in paragraphs 1 through 9, inclusive, as if separately set forth herein.
11. At all times relevant hereto, Defendant, in its capacity as an industrial cleaning, environmental remediation, and hazardous waste handling company, owed an affirmative and non-delegable duty of care to handle all hazardous waste with reasonable care.
12. At all times relevant hereto, Defendant breached its non-delegable duty of care to the Plaintiff by permitting a dangerous condition to arise during the course of its removal of hazardous waste via the negligent handling of the hazardous waste near Plaintiff's work space – a condition of which it was aware or should have been aware.
13. At all times relevant hereto, Defendant breached its non-delegable duty of care to the Plaintiff by negligently handling the hazardous waste near Plaintiff's work space, which caused a dangerous condition to arise near Plaintiff's work space.
14. At all times relevant hereto, Defendant, in its capacity as an industrial cleaning, environmental remediation, and hazardous waste handling company, owed an affirmative and non-delegable duty to warn of dangerous conditions related to chemical spills that arise over the course of its handling of hazardous waste.
15. At all times relevant hereto, Defendant breached its non-delegable duty of care to the Plaintiff by failing to warn of the dangerous condition related to the chemical spill that arose over the course of its handling of hazardous waste near Plaintiff's work space.

16. On November 14, 2017, Plaintiff encountered the aforementioned dangerous conditions, which caused the Plaintiff to inhale toxic chemicals.

17. As a direct and proximate result of Defendant's negligence, Plaintiff suffered bodily injury, and resulting pain and suffering, disability, mental anguish, and has incurred medical expenses for treatment and care, past, present and future.

WHEREFORE, the Plaintiff, Nancy Theberge, demands judgment against the Defendant, ACV Environmental Services, Inc., together with interest, costs, attorney's fees and such other and further relief as this Honorable Court deems equitable and just.

COUNT II
RES IPSA LOQUITUR

18. Plaintiff re-alleges and incorporates by reference the allegations made in paragraphs 1 through 17, inclusive, as if separately set forth herein.

19. At all relevant times, Defendant maintained control over the chemical waste that reacted with bleach to cause toxic chemicals to be released in the air near Plaintiff's work space.

20. At all relevant times, Defendant was responsible for the safe handling of the chemical waste that reacted with the bleach to cause toxic chemicals to be released in the air near Plaintiff's work space.

21. At all relevant times, Defendant was responsible for the safe remediation of any spills that occurred over the course of its handling of the chemical waste that reacted with the bleach to cause toxic chemicals to be released in the air near Plaintiff's work space.

22. At all relevant times, Defendant was responsible to warn of dangerous conditions related to chemical spills that arise over the course of its handling of hazardous waste

23. Plaintiff would not have suffered an acute exposure to toxic chemicals but for negligence by Defendants.

24. As a result, the doctrine of Res Ipsa Loquitur applies, permitting an inference of negligence against Defendants.

25. As a direct and proximate result of Defendant's negligence, Plaintiff suffered bodily injury, and resulting pain and suffering, disability, mental anguish, and has incurred medical expenses for treatment and care, past, present and future.

WHEREFORE, the Plaintiff, Nancy Theberge, demands judgment against the Defendant, ACV Environmental Services, Inc., together with interest, costs, attorney's fees and such other and further relief as this Honorable Court deems equitable and just.

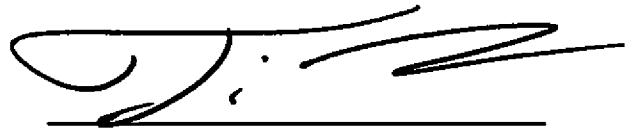
DEMAND FOR RELIEF

- A. The Plaintiff, Nancy Theberge, demands judgment against the Defendant, ACV Environmental Services, Inc. together with interest costs and attorneys fees as to all Causes of Action.

JURY CLAIM

PLAINTIFF CLAIMS TRIAL BY JURY ON ALL ISSUES.

The Plaintiff, Nancy Theberge,
By her Attorney,



Timothy D. Rodden Jr.
BBO #691228
Upper Charles Law Group, LLC
10 Kearney Road, Suite 101
Needham, MA 02494
(617) 600-7170
trodden@uclawgroup.com

Date: August 6, 2020